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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/731,324	12/09/2003	William Kenneth House	FORM-0003	5027

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EXAMINER
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GLESSNER, BRIAN E

ART UNIT	PAPER NUMBER
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3635

DATE MAILED: 01/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/731,324

**Applicant(s)**

HOUSE ET AL

**Examiner**

Brian E. Glessner

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 08 November 2004.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 5-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 5-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 November 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

The following office action is in response to the amendment filed on November 8, 2004. Claims 1, 2, and 5-12 are pending in the application. Claims 3, 4, and 13 have been canceled. Claims 1, 2, and 5-12 are rejected as set forth below.

***Claim Objections***

Claim 6 is objected to because of the following informalities: It is not clear if the applicant is only claiming the butt block or the butt block in combination with the drywall sheets because the last paragraph of claim 6 describes how the recess is formed by securing the sheets to the butt block. It appears to the examiner that this is merely a functional recitation of how the butt block is to be used. The applicant should claim that the recess is "adapted to be formed by..." to more clearly claim the functional limitation. Appropriate correction is required.

***Claim Rejections - 35 USC § 103***

Claims 1, 2, 5 and 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ferguson (5,799,458) in view of Utzman (1,967,846).

In regard to claim 1, Ferguson discloses a method of making a drywall joint comprising the steps of positioning a flexible butt block<sup>3</sup> that has a recessed surface on an interior side of a joint that is to be formed between a first drywall sheet 14a and a second drywall sheet 14b, wherein said butt block has an angled first portion and an angled second portion that meet at a central axis 34, securing first and second drywall sheets to the butt block so that the secured sheets are made to conform in shape to the recessed surface (figure 4) by securing second portions of the sheets, that are closer to

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the area at which the joint is to be made than a first portion, to the butt block, thereby pulling the sheets against the recessed surface to form a secondary recess on an exterior of the drywall sheet in the area at which the joint is to be made, and applying joint compound 43 within the secondary recesses. Ferguson does not specifically disclose the step of securing first portions of the sheets to the butt block, wherein the first portions are located further from the axis than the second portions. Utzman teaches that it is known to attach first and second sheets of drywall to a butt block in the manner claimed by applicant, see figure 1 of Utzman. It would have been obvious to one having ordinary skill in the art at the time the invention was made to attach Ferguson's sheets to the butt block at first and second positions, because by doing so it will allow the sheet to gradually bend as the screws are being placed through the sheets. Further, by using additional screws, the sheets will be held in place in a more secure fashion. Therefore, they will be less susceptible to conventional "nail pops" that commonly occur in drywall surfaces.

In regard to the flexible limitation, the examiner would like to point out that Ferguson's butt block is obviously flexible because it is a thin piece of 20-25 gauge sheet metal. Those having ordinary skill in the art know that sheet metal of this thickness is known to be at least somewhat flexible.

In regard to claims 2 and 5, Ferguson in view of Utzman disclose the basic claimed method, wherein step b) is further performed by securing both the first and second sheets to the recessed surface, whereby the secondary recess is formed on an exterior of both of the drywall sheets in the area at which the joint is to be made, figure

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4. Therefore, when the joint is finished by applying the joint compound 43, a substantially planar surface will be formed.

In regard to claim 10, Ferguson discloses a drywall joint comprising a first sheet of drywall 14a having a first butt edge, a second sheet of drywall having a second butt edge, said first and second sheets of drywall being positioned so that said first butt edge is adjacent to said second butt edge at a butt interface, recess forming means engaging said first and second sheets for pulling said first and second butt edges inwardly so as to define a secondary recess in exterior surfaces of the first and second sheets in the area of the butt interface, and a sealant 43 applied in said secondary recess, wherein said recess forming means comprises a flexible (see the rejection of claim 1 above) butt block comprising a first surface 31 for engaging the first sheet of drywall, a second surface for engaging the second sheet of drywall, a central axis 34 located in a central area of said butt block, an angled third surface closer to said central axis than said first and second surfaces, an angled fourth surface closer to said central axis than said first and second surfaces and a recess defining means defining a recessed area between said first and second surfaces, said recess defining means being constructed and arranged to be drawn into contact with butt edge areas of the first and second sheets of drywall when fully secured to said sheets of drywall, whereby the butt edge areas will be caused to form a concave secondary recess on an exterior surface of the drywall joint, and wherein said secondary recess is formed, as taught by Utzman (see the rejection of claim 1 above) by securing said first surface and said second surface to said first and

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second sheets of drywall and then securing said third and fourth surfaces to said first and second sheets of drywall.

The examiner would like to point out that claim 10 is an apparatus claim. Therefore, the method in which the sheets are secured is not given patentable weight as long as the sheets of Ferguson's invention are capable of being secured in the same manner, which they are. Utzman is being used in the rejection of claim 10 to teach the final product of using more than one fastener to fasten the sheets to the butt block. The rationale for using more than one fastener was discussed above in the rejection of claim 1 and will not be repeated here.

In regard to claim 11, Ferguson in view of Utzman disclose the basic claimed invention, wherein said sealant comprises a solidified joint compound.

In regard to claim 12, Ferguson in view of Utzman disclose the basic claimed invention, wherein said sealant is applied so that an outer surface of said sealant is positioned substantially within a common plane with exterior surfaces of said first and second sheets of drywall that are not affected by said recess forming means.

Claims 6-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ferguson (5,799,458).

In regard to claim 6, Ferguson discloses a butt block 3 for forming a drywall joint comprising a first surface 31 for engaging a first sheet of drywall, a second surface 31 for engaging a second sheet of drywall, a center axis 34 located in a central area of said butt block, angled, flexible, recess defining means for defining a recessed area between said first and second surfaces comprising a third surface closer to said central axis than

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said first and second surfaces, a fourth surface closer to said central axis than said first and second surfaces, said recess defining means being constructed and arranged to be drawn into contact with butt edge areas of the first and second sheets of drywall when fully secured to said sheets of drywall, whereby the butt edge areas will be caused to form a concave secondary recess on an exterior surface of the drywall joint, and wherein said secondary recess is capable of being formed by securing said first surface and said second surface to said first and second sheets of drywall and then securing said third and fourth surfaces to said first and second sheets of drywall.

In regard to the flexible limitation, the examiner would like to point out that Ferguson's butt block is obviously flexible because it is a thin piece of 20-25 gauge sheet metal. Those having ordinary skill in the art know that sheet metal of this thickness is known to be at least somewhat flexible.

In regard to claim 7, Ferguson discloses the basic claimed invention, wherein said butt block is fabricated from a material that may be penetrated by a drywall screw and that will provide sufficient anchoring for the drywall screw for the drywall screw to be able to pull the butt edge area of a sheet of drywall against the recessed area.

In regard to claim 8, Ferguson discloses the basic claimed invention except for specifically disclosing that said butt block is fabricated from a material comprising fiberglass. However, Ferguson does teach that it is known to use metal, plastic or hard rubber for a butt block device (column 6, lines 53 and 54). Although Ferguson does not specifically disclose the use of a plastic that contains fiberglass, the examiner takes the position that fiber reinforced plastic is a commonly known and used plastic material that

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would be known by those having ordinary skill in the plastic art to be encompassed by the generic term "plastic". It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a fiber reinforced plastic for Ferguson's member, because the fiber reinforced plastic will be easy to form in the desired configuration. Further, fiber reinforced plastic will also be stronger and cheaper to produce than other materials such as metal or wood.

In regard to claim 9, Ferguson discloses the basic claimed invention, wherein said butt block further comprises first and second outboard flange members 31, and wherein said first and second surfaces are defined, respectively, on said first and second outboard flange members.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1, 2, and 5-12 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the




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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian E. Glessner whose telephone number is 703-305-0031. The examiner can normally be reached on Monday through Friday 7:00-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman can be reached on 703-308-0839. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Brian E. Glessner  
Primary Examiner  
Art Unit 3635

B.G.  
December 30, 2004